

Amendment to the Drawings

The attached sheets of drawings include replacement FIGURE 1 and FIGURE 2 provided to overcome the objection to the drawings, objected to as to matters of form.

Replacement FIGURE 1 is provided to remove shading.

Replacement FIGURE 2 is provided to provide uniformly thick lines, numbers and letters.

Attachment: Two (2) Drawing Sheets.

Remarks/Arguments

Claims 1-30 are pending in this Application. In the Office Action mailed May 4, 2005, the Examiner:

1. Objected to the drawings under 37 C.F.R. § 1.84;
2. Objected to Claim 26 for informalities;
3. Rejected Claim 3 under 35 U.S.C. § 112, first paragraph, for nonenablement; and
4. Rejected Claims 1-30 under 35 U.S.C. § 102(e) as being anticipated by Onyshkevych et al. (US Patent No. 6,665,577).

Applicants respectfully address the basis for the Examiner's objections and rejections below.

Drawings Objections

On page two of the Office Action, the drawings were objected to under 37 C.F.R. § 1.84. Figure 1 is said to contain shading. Applicant respectfully submits replacement Figure 1 that includes a formal and rendered drawing of original Figure 1A that now contains no shading and has all the elements as outlined in the specification for Figure 1. Applicant respectfully withdraws Figures 1B and 1C, figures considered to be substantial duplicates of original Figure 1A. An Amendment to the Specification at paragraph [0014] is included with this Amendment to remove any reference to Figure 1B and Figure 1C in the Brief Description of the Drawings. No new matter is introduced to the specification with this amendment. Applicant respectfully requests entry and allowance of the Amendment to the Specification.

Figure 2 is said to have non-uniform lines, numbers and letters. Applicant respectfully submits replacement Figure 2, a formal drawing of original Figure 2 prepared to remove non-uniform lines, numbers and letters with uniformly thick lines numbers and letters that are well-defined, clean, durable and black. Replacement Figure 1 and replacement Figure 2 were prepared by a competent draftsman outside the Office. No new matter is submitted with the replacement sheets of drawings provided herewith. Applicant respectfully requests entry and allowance of these replacement drawings.

Claims Objection

On page 2 of the Office Action, the Examiner objected to Claim 26 as to matters of form. Applicant thanks the Examiner for pointing this out and respectfully submits amended Claim 26, amended to overcome the objection and provide proper antecedent basis. No new matter is submitted with amended Claim 26. Applicant respectfully requests entry and allowance of amended Claim 26.

Claims Rejection – 35 U.S.C. § 112, first paragraph

On page 3 of the Office Action, the Examiner rejected Claim 3 under 35 U.S.C. § 112, first paragraph, for not complying with the enablement requirement. The Examiner states, “the Textile Technology Corporation’s Size USA data set recited in the claim is an indefinite term. The contents of the data set are not permanent and can be changed and altered at some future point in time. The claim does not address this possibility and therefore the contents of the claim are indefinite.” Applicant has amended Claim 3, amended to provide data that “is a data set obtained from the Textile Technology Corporation.” Amended Claim 3 is believed to overcome the rejection to the claim. Entry and allowance of amended Claim 3 is respectfully requested.

Claims Rejection – 35 U.S.C. § 102(e)

On page 3 of the Office Action, Claims 1-30 were rejected under 35 U.S.C. § 102(e) for being anticipated by Onyshkevych et al.

For Claims 1-6, 8-9, and 13, the Examiner states that Onyshkevych et al. disclose a method of providing a garment fit to a target consumer group comprising the combination of steps as provided in Applicant’s Claim 1. Applicant respectfully disagrees with such a statement and respectfully submits that Onyshkevych et al. do not disclose a method of providing a garment fit to a target consumer group comprising the combination of steps as claimed in Claim 1. In fact, Applicant submits that Onyshkevych et al. do not disclose any method of providing a garment fit to a target consumer group. Rather, Onyshkevych et al. disclose “a system, method, and article of manufacture for predicting the fit and size of a garment on a customer for a particular garment dimension.” (Col. 2, ll. 38-43; emphasis added) The system of Onyshkevych et al. is a database (Col. 15, ll. 7-23), an input/output device to access garment selection related

information (Col. 14, ll. 54-61) or a user network access device for inputting and retrieving information (Claim 1). The method of Onyshkevych et al. is providing the database with fit scores to a user, namely a customer, on-line retailers, off-line retailers, and brands. (Col 17, ll. 47-50; Claims 1-28) An “article of manufacture” of Onyshkevych et al. is one provided on-line by the above system. (Col. 18, ll. 48-50) Onyshkevych et al. further define a database as one that “can store and provide fit scores which relate to possible body dimension measurement as either taken by a customer, recorded by an electronic tape measure, scanned by a three-dimensional body scanning booth, or derived from any other methodology including other input devices and/or past purchase history data.” (Col. 15, ll. 7-12) Alternatively, the database, as defined by Onyshkevych et al., is one “wherein customer purchase selections can be stored.” (Col. 15, ll. 24-27) Such database, as disclosed by Onyshkevych et al., are, therefore, either stored on a computer or available over an internet/public access network. (Col. 15, ll. 12-16) Thus, Onyshkevych et al. disclose a method of predicting fit using a database run on a computer. More specifically, the method, as defined by Onyshkevych et al., is “for determining the fit of a garment on a user” using a “first database to store and provide information” and then “recommending a size of said garment to said user based” after “providing said user with said overall fit score.” (Col. 23, ll. 20-29; Claim 1) Applicant respectfully points out that this method is contrary to the Examiner’s statement and that Onyshkevych et al. does not disclose a method as claimed by Applicant’s Claim 1. For example, the Examiner states that, Onyshkevych et al. disclose “the steps of determining common body types for the target consumer group (Col. 4, lines 40-43).” Applicant respectfully points out that at Col. 4, lines 40-43, Onyshkevych et al. merely provide a general definition of the term “Body Type” as found in section “II. Key Terms” of the specification for a term that may be used somewhere in the specification and provided without reference to determining common body types for a target consumer group as required of Applicant’s Claim 1. Similarly, Onyshkevych et al. does not disclose determining common body types for the target consumer group combined with “establishing customized body measurement standards for each body type (Col. 8, lines 37-41),” as stated by the Examiner and required by Applicant’s Claim 1. At Col. 8, lines 37-41, Onyshkevych et al. merely provide a general definition of the term “Required Fitting Dimensions” as found in section “II. Key Terms” of the specification for a term that may be used somewhere in the specification and without reference to the combination of determining common body types for the target consumer group and

establishing customized body measurement standards for each body type as claimed in Applicant's Claim 1. The Examiner also states that Onyshkevych et al. disclose "selecting at least one real fit model for each body type (Col. 7, lines 11-13)." However, at Col. 7, lines 11-13, Onyshkevych et al. merely provide a general definition of the term "Fit Model" as found in section "II. Key Terms" of the specification for a term that may be used somewhere in the specification and without reference to selecting at least one real fit model for each body type in combination with establishing customized body measurement standards for each body type as claimed in Applicant's Claim 1. The Examiner then states that, Onyshkevych et al. disclose "creating a sample garment in a range of sizes using grading rules" and "creating a sample garment on a fit model selected for each size and body type (Col. 7, lines 31-41 and Col. 8, lines 42-44)." Yet, Col. 7, lines 31-41 of Onyshkevych et al. is a general definition of the term "Grade" and Col. 8, lines 42-44 is merely a general definition of the term "Sample Size" both terms as found in section "II. Key Terms" of the specification for terms that may be used somewhere in the specification. Applicant respectfully points out that providing mere general definitions of unrelated terms as potentially used in the specification are not specific teaching of the elements or their combination in an arrangement as required by Applicant's claimed invention. Applicant respectfully requests the Examiner to point to such specific teachings of elements, their arrangement and combination in Onyshkevych et al. if they exist rather than the mere general definitions of unrelated terms that may be potentially used somewhere in the specification. Applicant submits that Claim 1, as combined, is not expressly or inherently described in Onyshkevych et al. Because Onyshkevych et al. do not suggest or describe expressly or inherently each and every element of Claim 1 or Claim 1 on its whole, nor is the invention of Onyshkevych et al. arranged as required by Claim 1, Claim 1 and its dependents (Claims 2-13) are not anticipated by Onyshkevych et al. Accordingly, Applicant respectfully requests entry and allowance of Claim 1-13.

Claims 7 and 10-12 were rejected by the Examiner for various reasons. For the reasons set forth above, Applicant submits that these claims, depending from Claim 1, are not anticipated by Onyshkevych et al. Applicant respectfully requests entry and allowance of Claims 7 and 10-12.

Claims 14-21, 26 and 30 are said by the Examiner to be disclosed by Onyshkevych et al. On page 4 of the Office Action, the Examiner states:

Onyshkevych et al. discloses a system for preparing a custom fit garment comprising quantitative and qualitative data, including body point measurements about the target consumer group used to establish customized body measurement standards (Col. 8, lines 37-41); a sample garment created from the customized body measurement standards (Col. 8, lines 42-44); a first real fit model with the body measurements that fall within the customized body measurement standards used to fit the sample garment (Col. 7, lines 11-13); one or more grading rules to create sample garments in a range of sizes for the target consumer group (Col. 7, lines 31-47); and a second fit model selected from the target consumer group and used to perfect the fit of the sample garment and prepare a custom fit garment (Col. 7, lines 11-13).

Applicant respectfully points out that, contrary to the Examiner's statement, Onyshkevych et al. do not disclose a system as claimed in Applicant's Claim 14. For example, Onyshkevych et al. do not disclose quantitative and qualitative data, including body point measurements about the target consumer group used to establish customized body measurement standards at Col. 8, lines 37-41, as stated by the Examiner. Instead, Col. 8, lines 37-41 of Onyshkevych et al. is a mere general definition of "Required Fitting Dimensions" as found in section "II. Key Terms" of the specification for a term that may be used somewhere in the specification and provided without any reference to body point measurements about a target consumer group used to establish customized body measurement standards as claimed in Applicant's Claim 14. Similarly, Col. 8, lines 42-44, is a mere general definition for "Sample Size" as found in section "II. Key Terms" of the specification of Onyshkevych et al. to identify a mere term that may be used somewhere in the specification; the definition is provided without reference to a sample garment created from customized body measurement standards or body point measurements about the target consumer group used to establish customized body measurement standards as claimed in Claim 14. In addition, Col. 7, lines 31-47, is a mere general definition for "Grade" and Col. 7, lines 11-13, is a mere general definition for "Fit Model" both found in section "II. Key Terms" of the specification of Onyshkevych et al., provided as mere terms that may be used somewhere in the specification and without reference to a first real fit model with body measurements that fall within the customized body measurement standards used to fit the sample garment or to create sample garments in a range of sizes for the target

consumer group or a second fit model selected from the target consumer group and used to perfect the fit of the sample garment and prepare a custom fit garment as claimed in Claim 14. Applicant respectfully points out that providing mere general definitions of unrelated terms as potentially used in the specification are not specific teaching of the elements or their combination in an arrangement as required by Applicant's claimed invention. Applicant respectfully requests the Examiner to point to such specific teachings of elements, their arrangement and combination in Onyshkevych et al. if they exist rather than the mere general definitions of unrelated terms that may be potentially used somewhere in the specification. Accordingly, Applicant submits that Claim 14, as claimed on its whole, is not expressly or inherently described in Onyshkevych et al. In addition, Onyshkevych et al. do not describe expressly or inherently each and every element of Claim 14 nor is the invention of Onyshkevych et al. arranged as required by Claim 14. Therefore, Claim 14 and its dependents (Claims 15-21, 26 and 30) cannot be anticipated by Onyshkevych et al. Applicant respectfully submits amended Claim 14, amended as to matters of form. Accordingly, entry and allowance of amended Claims 14 and Claims 15-21, 26 and 30 are respectfully requested.

Claims 22-25 are said by the Examiner to be disclosed by Onyshkevych et al. On page 5 of the Office Action, the Examiner states:

Onyshkevych et al. discloses a method for providing a custom fit garment comprising the steps of selecting a target group based on at least one criteria (Col. 4, lines 40-43); conducting research about the target group to obtain the data; identifying at least one body type from the data (Col. 7, lines 11-13); providing size groupings for each body type (Col. 8, lines 42-44); establishing customized body measurement standards for each size grouping (Col. 3, lines 25-30); selecting a size in the middle of the size grouping to create a sample garment; checking fit of the sample garment on a real fit model with body measurements that conform with the customized body measurement standards (Col. 8, lines 42-44); applying grading rules to the sample garment to obtain sample garments for the entire size grouping (Col. 7, lines 31-52); checking fit at selected sizes using a real fit model for each size (Col. 8, lines 42-44); and creating custom fit garment at each size and body type after fits are checked (Col. 1, lines 15-18).

Applicant respectfully points out that, contrary to the Examiner's statement, Onyshkevych et al. do not disclose a method or its arrangement as claimed in Applicant's independent Claim 22. For example, contrary to the Examiner statement, Col. 4, lines 40-43 of Onyshkevych et al. is merely a general definition of the term "Body Type" found in section "II.

Key Terms” of the specification of Onyshkevych et al., a term that may be used somewhere in the specification with no reference to selecting a target group based on at least one criteria or conducting research about the target group to obtain data as claimed in Claim 22. Similarly, contrary to the Examiner’s statement above, Col. 7, lines 11-13 of Onyshkevych et al. is merely a general definition of “Fit Model” found in section “II. Key Terms” of the specification, a term that may be used somewhere in the specification and provided without reference to conducting research about a target group to obtain data or providing size groupings for each body type as claimed in Applicant’s Claim 22. Col. 8, lines 42-44 of Onyshkevych et al. is merely a general definition of “Sample Size” found in section “II. Key Terms” of the specification of Onyshkevych et al., a term that may be used somewhere in the specification with no reference to providing size groupings for each body type or establishing customized body measurement standards for each size grouping or followed by for checking fit of the sample garment on a real fit model with body measurements that conform with the customized body measurement standards or checking fit at selected sized using a real fit model for each size as claimed in Claim 22. In addition, Col. 3, lines 25-30, is a mere definition for an ideal or intended size for a garment referred to by Onyshkevych et al. as “Perfect Fit” with no reference to establishing customized body measurement standards for each size grouping or selecting a size in the middle of the size grouping to create a sample garment as claimed in Claim 22. Further, Col. 7, lines 31-52, is a mere definition for “Grade” found in section “II. Key Terms” of the specification of Onyshkevych et al., a term that may be used somewhere in the specification with no reference to applying grading rules to the sample garment fit on a real fit model or checking fit using a real fit model as claimed in Claim 22. Moreover, Col. 1, lines 15-18, is an Abstract of the invention that does not describe creating a custom fit garment at each size and body type after fits are checked or a method arranged as claimed in Applicant’s Claim 22. Applicant respectfully points out that providing a mere general Abstract and a number of mere definitions of terms as defined throughout the specification are not specific teachings of the elements or their combination in an arrangement as required by Applicant’s claimed invention. Applicant respectfully requests the Examiner to point to such specific teachings of elements, their arrangement and combination in Onyshkevych et al. if they exist rather than the mere general definitions of unrelated terms that may be potentially used somewhere in the specification. Applicant respectfully submits that independent Claim 22 on its whole as well as its dependents, Claims 23-25, are not described

expressly or inherently in Onyshkevych et al. In addition, Onyshkevych et al. does not provide an each and every element of Claim 22 in an arrangement or combination as claimed in Claim 22. Therefore, Claim 22 and its dependents cannot be anticipated by Onyshkevych et al. Accordingly, Applicant respectfully requests entry and allowance of Claims 22-25.

For Claim 27, the Examiner states that “Onyshkevych et al. discloses improved grading rules provided for the garment comprising applied grading rules that grade the garment up and down from a selected size; and preferred grading rules, wherein fit of the garment is adjusted based on design and fit preferences obtained from one or more potential wearers of the garment (Col. 8, line 57-Col. 10, line 27).” Applicant respectfully disagrees with the Examiner statement and points out that Col. 8, line 57-Col. 10, line 27 of Onyshkevych et al. is a complicated series of mathematical calculations (see Cols. 9, 10, 11 and 12 for calculation examples) for Curve Development so that “when a consumer wants to find out what garment fits them best, *a set of the consumer’s body dimensions is compared to the Curves to determine Dimensional Fit Ratings. Dimensional Fit Ratings are then combined to form Garment Fit Ratings.*” (Col. 10, ll. 29-34; emphasis added). Further, Onyshkevych et al. disclose that “Dimensional Fit Ratings are determined for each Fitting Dimension and each size of garment being tested. For a particular size in a particular dimension, the Dimensional Fit Rating is determined by comparing the consumer’s body measurement in that dimension to the Curve for that size and that dimension in that garment. The consumer’s body measurement is matched up to a body measurement along the x-axis, and the Dimensional Fit Rating is the y-intercept of the Curve at the body measurement point identified along the x-axis. . .” (Col. 10, ll. 36-55) Thus, Col. 8, line 57-Col. 10, line 27 do not disclose grade rules as claimed in Applicant’s Claim 27. Applicant respectfully submits that Onyshkevych et al. do not teach or suggest expressly or inherently each and every element of Claim 27 nor Claim 27 on its whole. In fact, Onyshkevych et al. do not provide an arrangement or combination of elements as claimed in Claim 27. Accordingly, Claim 27 cannot be anticipated by Onyshkevych et al. and Applicant respectfully requests entry and allowance of Claim 27.

For Claim 28, the Examiner states that “Onyshkevych et al. discloses a real fit model provided for fitting a garment, wherein the real fit model has body measurements within customized body measurement standards established for a particular body type and size. (Col. 7,

lines 11-14).” Applicant respectfully disagrees with the Examiner statement and points out that is Col. 7, lines 11-14 is a mere general definition of “Fit Model” found in section “II. Key Terms” of the specification of Onyshkevych et al. for a standard industry term that may be used somewhere in the specification. Onyshkevych et al. does not disclose a Fit Model with customized body measurement standards established for a particular body type and size. Applicant respectfully submits that in Onyshkevych et al. do not teach or suggest expressly or inherently each and every element of Claim 28 nor Claim 28 on its whole. In fact, Onyshkevych et al. do not provide an arrangement or combination of elements as claimed in Claim 28. Accordingly, Claim 28 cannot be anticipated by Onyshkevych et al. and Applicant respectfully requests entry and allowance of Claim 28.

For Claim 29, the Examiner states that Onyshkevych et al. discloses a method of fitting a garment as claimed in Claim 29. As discussed above, Onyshkevych et al. do not disclose any method of creating a garment, but a method of predicting the fit and size of a garment on a customer for a particular garment dimension based on a perfect fit score using a computer database. The Examiner refers to Col. 2, lines 25-29 and Col. 8, lines 42-44 for support for creating a garment at a size that is in the middle of a size grouping for a particular body type. However, Applicant respectfully points out that Col. 2, lines 25-29 do not disclose creating a garment at a size that is in the middle of a size grouping for a particular body type. Instead, Col. 2, lines 25-29 is a definition of an ideal or intended size for a garment, defined as “a range around that where the fit is still unquestionably fine; this range can all be considered a ‘perfect’ fit and measurements within this range receive a perfect fit score.” In addition, Col. 8, lines 42-44 of Onyshkevych et al. is a mere general definition of “Sample Size” found in section “II. Key Terms” of the specification for a term that may be used somewhere in the specification and provided by Onyshkevych et al. without any reference to garment size that is in the middle of a size grouping for a particular body type. The Examiner then uses additional definitions found in section “II. Key Terms” of the specification as evidence for a rejection of Claim 29; however, none of the definitions specifically refer to a specific element or its arrangement or combination as claimed in Applicant’s Claim 29. Applicant respectfully points out that merely providing a number of definitions of terms as defined in the specification without any specific teachings are not teachings of the elements or their combination in an arrangement as required by Applicant’s

claimed invention. Applicant respectfully requests the Examiner to point to such specific teachings of elements, their arrangement and combination in Onyshkevych et al. if they exist rather than the mere general definitions of unrelated terms that may be potentially used somewhere in the specification. Applicant respectfully submits that Onyshkevych et al. do not disclose or teach expressly or inherently each and every element of Claim 29 nor Claim 29 on its whole. In fact, Onyshkevych et al. do not provide an arrangement or combination of elements as claimed in Claim 29. Accordingly, Claim 29 cannot be anticipated by Onyshkevych et al. and Applicant respectfully requests entry and allowance of Claim 29.

New Claims 31-34 are added with this Amendment to fairly protect the instant invention. Support for new Claims 31-34 are found in the specification and claims. No new matter has been added with entry of new Claims 31-34 as provided herein. Accordingly, entry and allowance of these new claims are respectfully requested.

Conclusion

In light of the amendments, remarks and arguments presented above, Applicant respectfully submits that the pending and amended claims are in condition for allowance. Applicant also submits with this Amendment proposed corrected drawing sheets for Figure 1 and Figure 2 as well as amendments to the specification that correspond to the corrected drawing sheets. In addition, new Claims 31-34 are included with this Amendment, claims believed to define patentably over the prior art of record in this Application and to be necessary to fairly protect the instant invention. No new matter is introduced with this Amendment. Accordingly, favorable consideration for and allowance of original Claims 1-2, 4-13, 15-25, and 28-30, as well as amended Claims 3, 14, 26 and 27 and new Claims 31-34 are respectfully requested.

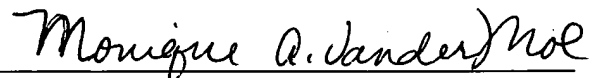
Applicants herewith submits a check for payment of additional claims with this Amendment. Applicants believes no additional fees, other than those of the additional claims fees, are due with this response. If this is incorrect, Applicants hereby authorizes the Commissioner to charge the additional fees, other than the issue fee, that may be required by this paper to Deposit Account 07-0153.

If the Examiner has any questions or comments, or if further clarification is required, it is requested that the Examiner contact the undersigned at the telephone number listed below.

Dated: August 4, 2005

Respectfully submitted,

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